UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION DOCKET NO. 5:18-cv-00055-MOC

JOE HENRY THOMAS; AND SYLVIA)	
MALLARD THOMAS,)	
Appellants,)	
)	
Vs.)	ORDER
)	
STEVEN G. TATE,)	
)	
Appellee.)	

THIS MATTER is before the Court on the <u>second</u> Memorandum to the District Court from the Clerk of the Bankruptcy Court (#6) filed in accordance with Rule 8001(a), Federal Rules of Bankruptcy Procedure. Fed.R.Bankr.P. 8001(a).

In that memorandum, the Bankruptcy Clerk advises that the *pro se* Appellants have to comply with Rule 8009(b) in that they have not filed the <u>Designation of Items</u> to be included in the "Record on Appeal" and have not filed a <u>Statement of Issues</u> for this Court to consider in determining their appeal. Fed.R.Bankr.P. 8009(b). Pursuant to <u>Roseboro v. Garrison</u>, 528 F.2d 309 (4th Cir.1975), appellants are advised that in failing to file such items with the Bankruptcy Court, their appeal is not in compliance with Rule 8009(b). <u>Id.</u> To comply with that rule, appellants will need to file both a Designation of Items to be include in the Record on Appeal and a Statement of Issues within the additional time allowed in this Order.

Finally, the appellants are again advised that "failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the district court ... to act as it considers appropriate, including dismissing the appeal." Fed.R.Bankr.P.

8003(a)(2). Appellants are advised that if they fail to make the filings discussed in this Order and file those by May 25, 2018, the Court may dismiss this action or take other appropriate action.

ORDER

IT IS, THEREFORE, ORDERED that acting upon the second Memorandum to the District Court from the Clerk of the Bankruptcy Court (#6), appellants are advised that they are required to file with the bankruptcy Clerk of Court both a "Designation of Items" to be included in the Record on Appeal and a "Statement of Issues" not later than May 25, 2018.

Signed: May 10, 2018

Max O. Cogburn J.

United States District Judge